

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING FOR THE ADOPTION OF THE ENTERPRISE ZONE ADMINISTRATION AND ISSUANCE OF VOUCHERS REGULATIONS

Notice is hereby given that the Department of Housing and Community Development (Department) proposes to adopt regulations governing the State Enterprise Zone Program. These regulations govern the implementation of changes to the State's Enterprise Zone program resulting from the passage of Section 1 of Chapter 593, Statutes of 2003 (S.B. 305, hereinafter referred to as "Chapter 593"), and Sections 14, 15, 66 and 67 of Chapter 225, Statutes of 2004 (SB 1097, hereinafter referred to as "Chapter 225"). (These changes amend Government Code Sections 7072, 7076 and 7086, and Revenue and Taxation Code Sections 17053.74 and 23622.7).

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period begins on October 21, 2005 and closes at 5:00 p.m. on December 7, 2005. HCD will consider comments received during this timeframe. The regulations are available at www.hcd.ca.gov. Please address your comments to Michelle Adams, Community Affairs, Enterprise Zone Program, 1800 3rd Street, Suite 390, Sacramento, California 95814. Comments can be sent via fax transmittal to (916) 323-2815, attention: Michelle Adams, Enterprise Zone Program. Or, via e-mail at miadams@hcd.ca.gov.

PUBLIC HEARINGS

A public hearing will be held in Sacramento, CA on Wednesday, December 7, 2005 beginning at 10:00 A.M at the HCD headquarters, Room 183, located at 1800 Third Street; Sacramento, CA 95814. Any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest below. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimonies at the hearings.

AUTHORITY AND REFERENCE

The Department is conducting this rulemaking activity under the authority provided by Government Code Sections 7072, 7076 and 7086, and Revenue and Taxation Code Sections 17053.74 and 23622.7. They implement and make specific Government Code Sections 7076 and 7086.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The primary purpose of this rulemaking is to respond to the Legislature's direction to promulgate regulations governing the issuance of vouchers by local enterprise zones. Article 14 – Enterprise Zone Administration and Issuance of Vouchers – addresses the following topics:

- Designation of a zone manager and staffing
- Standards for a local vouchering program
- Actual content to be included in a voucher
- Required documentation for issuance of a voucher
- Alternate method of establishing eligibility if documentation is unavailable
- Appeals to the Department

The general purposes of this rulemaking are:

- To establish a uniform, statewide system for qualifying employees, issuing vouchers, and providing appropriate documentation for businesses to receive hiring tax credits.
- To create and maintain a required level of scrutiny to document that an employee is “qualified” thereby entitling the employer for a hiring tax credit pursuant to Revenue and Taxation Code Section 17053.74 or 23622.7.
- To ensure independent, systematic, consistent and recorded verification that the documentation submitted in support of an application for a hiring tax credit vouchers substantiates that the employee is a “qualified employee.”

§ 8431. Definitions. This section provides the definitions of key terms used throughout the body of regulations. The definitions in this section as closely as possible mirror the way the terms are used in statute. These definitions are descriptive, are adopted in order to shorten the text of the regulations, and for ease of reference, and are not “interpretive.”

§ 8450.0. Definitions. The purpose of this section is to establish a separate set of definitions necessary for the unique terms used in Article 14. Section 8450 informs the reader that the term “Subdivision” refers to the same subdivision of Revenue and Taxation Code Sections 17053.74 and 23622.7.

§ 8450.1. Designation of Zone Manager and Staffing. This section is necessary in order to establish issuance of vouchers by local zones that was not provided for in statute, and to acknowledge enterprise zone managers.

§ 8450.2. Administration of a Vouchering Program. The purpose of section is to establish the parameters of any zone vouchering program. And to respond to specific issues raised by businesses and their consultants as a result of the current ad hoc process.

§ 8450.3. Content of a Voucher. This section prescribes the content of vouchers, including the application portion of the voucher. The Department proposes to retain authority to prescribe the format of the voucher.

§ 8450.4. Required Documentation For Issuance of a Voucher. The purpose of this section is to make clear to any applicant for a voucher, and to emphasize to any applicant, that there are four basic requirements for the issuance of a voucher.

§ 8450.5. Acceptable Documentation. In this section, the Department's intent is to make it as easy as possible for a business applying for a voucher to produce the documentation required to establish that an "eligible employee" has been hired, consistent with the express requirements of statute.

§8450.6. Alternate Method of Establishing Eligibility for Issuance of a Voucher. The Department is proposing Section 8450.6 to give businesses and zone managers the flexibility to entertain alternate forms of documentation.

§8450.7. Voucher Appeals. Taxpayer-business representatives historically have complained that zones apply inconsistent standards in the issuance or denial of vouchers. For that reason the Department agrees with taxpayer-business representatives that some form of an appeal process is both fair and necessary. This section establishes a voucher appeals process.

IMPACT OF PROPOSED REGULATIONS

The purpose of the Enterprise Zone program is to stimulate business and industrial growth in depressed areas of the state. Areas designated as enterprise zones derive a variety of governmental benefits including the granting of tax credits to businesses located in an enterprise zone for hiring qualified persons.

EFFECT ON SMALL BUSINESS

The proposed regulations will affect small businesses within an Enterprise Zone. However the regulations do not mandate or require small businesses to take any prescribed action, the program is voluntary if they wish to receive tax credits.

LOCAL MANDATE

The proposed regulatory activity will not impose a mandate on local agencies or school districts. Participation in the program is voluntary.

FISCAL IMPACT

There is no cost impact on private persons and the cost to businesses directly affected is expected to be minimum. Participation in the program is voluntary.

- Cost or savings to any state agency - None
- Cost or savings in federal funding to the state – None
- Other non-discretionary cost or savings imposed upon local agencies – None

- Cost to any local agency or school district for which Government Code section 17500-17630 requires reimbursement - None

EFFECT ON HOUSING COSTS

The focus of the Enterprise Zone program regulations is to stimulate business and industrial growth in depressed areas of the state. It is not anticipated that there will be any impact on housing costs.

INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program would be voluntary.

STATEMENT OF POTENTIAL COSTS IMPACT ON PRIVATE PERSONS AND BUSINESS DIRECTLY AFFECTED

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses may be eligible for the program, participation is voluntary.

CONSIDERATION OF ALTERNATIVES

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Michelle Adams at the address and telephone number noted below. The regulations are also available on the department's web site at : www.hcd.ca.gov

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text--with changes clearly indicated--available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michelle Adams at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF RULEMAKING DOCUMENTS

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

AVAILABILITY OF FINAL STATEMENT OF REASONS

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

CONTACT INFORMATION PERSON

HCD: Michelle Adams
(916) 327-0579

HCD Back-Up: Lenora Frazier
(916) 323-7288

HCD Address: State Department of Housing and Community Development
1800 Third Street, Room 390
Sacramento, California 95814

HCD Website: Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations may be accessed through our website at www.hcd.ca.gov

HCD Facsimile No: (916) 323 -2815

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning the substance of the proposed rulemaking action and any requests for the documents noted above should be made to:

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